

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JERRY DEAN PETERSEN,

Plaintiff,

v.

SNOHOMISH COUNTY SUPERIOR
COURT, and THE STATE OF
WASHINGTON,

Defendant.

CASE NO. C23-1093 MJP-BAT

ORDER REVOKING IN FORMA
PAUPERIS STATUS

This matter comes before the Court on referral from the Ninth Circuit Court of Appeals for the limited purpose of determining whether in forma pauperis (“IFP”) status should continue for the sake of Plaintiff’s appeal or whether the appeal is frivolous or taken in bad faith. (Dkt. No. 15.) The Court finds that Plaintiff’s appeal to the Ninth Circuit is frivolous and revokes his IFP status.

A litigant who cannot afford the expense of an appeal may move for leave to proceed IFP. Fed. R. App. P. 24(a); 28 U.S.C. § 1915(a)(1). But “[a]n appeal may not be taken in forma

1 pauperis if the trial court certifies in writing that it is not taken in good faith.” 28 U.S.C. §
2 1915(a)(3); Hooker v. Am. Airlines, 302 F.3d 1091, 1092 (9th Cir. 2002). A “good faith” appeal
3 must seek review of at least one “non-frivolous” issue or claim. Id. An issue is “frivolous” where
4 it “lacks an arguable basis either in law or in fact.” Neitze v. Williams, 490 U.S. 319, 325 (1989).
5 Legally frivolous claims are those “based on an indisputably meritless legal theory,” such as
6 claims against defendants who are immune from suit or for infringement of a legal interest that
7 clearly does not exist. Id. at 327. Factually frivolous claims are those premised on “clearly
8 baseless” factual contentions, such as claims “describing fantastic or delusional scenarios.” Id. at
9 327-28.

10 Plaintiff has not shown he brings this appeal in “good faith” because he fails to seek
11 review of at least one “non-frivolous” issue or claim. Hooker, 302 F.3d at 1092. This Court
12 previously adopted the Report and Recommendation and dismissed the case because Plaintiff
13 seeks relief from defendants who are immune from suit. (Dkt. No. 12.) Plaintiff’s appeal
14 continues to seek relief from defendants immune from suit. For this reason, the Court has not
15 found “at least one issue or claim” Plaintiff wishes to appeal is “non-frivolous.” Hooker, 302
16 F.3d at 1092. The Court certifies the proposed appeal is not taken in good faith under 28 U.S.C.
17 § 1915(a)(3). The Court hereby revokes Plaintiff’s IFP status pursuant to Fed. R. App. P. 24(a).

18 The clerk is ordered to provide copies of this order to Plaintiff, all counsel, and the Ninth
19 Circuit Court of Appeals.

20 Dated January 3, 2024.

21 

22 Marsha J. Pechman
23 United States Senior District Judge
24